

REMARKS

Applicant respectfully requests reconsideration of this application as amended. Claims 1, 12, 14, 16-17, 22, 24 and 26-27 have been amended to present the claims in better form for allowance and for possible consideration on appeal. Applicant respectfully requests the Examiner to accept the proposed amendments. No claims have been cancelled without prejudice. No new claims have been added. Therefore, claims 1, 2-11, 13, 15, 18-21, 23, 25 and 28-31 are presented for examination.

35 U.S.C. § 103 Rejection

Claims 1-3, 5-14, 17-24 and 27-31 stand rejected under 35 U.S.C. §103(a), as being unpatentable over Jung et al., U.S. Patent No. 6,308,208 (“Jung”) in view of Gorman, U.S. Patent No. 6,795,791 (“Gorman”).

Claim 1, as amended, recites:

A monitoring system comprising:

- a cluster of application servers communicatively coupled on a network to serve applications over the network to a plurality of clients, each of the application servers comprising a plurality of server nodes;

- a plurality of management bean ("MBean") servers associated with the server nodes of the application servers, the MBean servers comprising a monitor MBeans generated by a monitor service;

- resource MBeans associated with resources on each of the server nodes, each resource MBean registered with at least one of the MBean servers, each of the resource MBeans collecting and reporting monitoring data for its associated resource, wherein the monitor MBeans are installed by a central monitor service based on monitor configuration data at a central database to arrange the monitor MBeans in a hierarchical monitor tree to provide a logical relationship between each of the resources on the server nodes, wherein the resource MBeans are mapped to the monitor MBeans within the monitor tree to establish a link between each of the monitor MBeans and its associated resource; and

- notification logic to generate notification in response to certain specified events associated with certain resources of certain MBeans, the notification logic distributing the notifications across all, or a subset of, the server nodes of the cluster.

(emphasis added).

Applicant respectfully disagrees with the Examiner's characterization of the references and the pending claims. For example, the Examiner acknowledges that Jung teach all the features of claim 1, but relies on Gorman to make for the deficiencies of Jung. See Office Action, mailed 06-04-08, pages 3-4. Applicant respectfully disagrees. For example, referring now to a section of Gorman relied upon by the Examiner, Gorman discloses "a method for testing a JMX monitor. In the method, *a signal is generated using a generator bean, such as a signal generator Java MBean. Equations and/or parameters may be specified in determining the type of signal to be generated. The generator bean is then polled at a frequency at least twice the frequency of the generated signal using a monitor MBean of the JMX monitor.* A testing value is then returned for each polling of the generator bean." Col. 1, lines 59-67 (emphasis added). Applicant submits that Gorman's use of *a generator bean, such as a signal generator Java MBean to generate a signal* is **not the same as and has nothing to do with** the system of claim 1 which employs a combination of two means, the resource beans and the monitor beans and wherein the "resource MBeans are mapped to the monitor MBeans within the monitor tree to establish a link between each of the monitor MBeans and its associated resource". (emphasis added). Hence, Gorman does not make up for the deficiencies of Jung.

Claim 1, as amended, in pertinent part, further recites "the monitor MBeans are installed by a central monitor service based on monitor configuration data at a central database to arrange the monitor MBeans in a hierarchical monitor tree to provide a logical relationship between each of the resources on the server nodes". (emphasis added). Jung and Gorman, neither individually nor when combined, teach or reasonably

suggest the monitor MBeans are installed by a central monitor service based on monitor configuration data at a central database **to arrange the monitor MBeans in a hierarchical monitor tree to provide a logical relationship between each of the resources on the server nodes** as recited by claim 1. Accordingly, Applicant respectfully requests the withdrawal of the rejection of claim 1 and its dependent claims.

Claims 12 and 22 contain limitations similar to those of claim 1. Accordingly, Applicant respectfully requests the withdrawal of the rejection of claims 12 and 22 and their dependent claims.

Furthermore, according to MPEP §2143, “[T]he Supreme Court in *KSR International Co. v. Teleflex, Inc.* 550 U.S. ___, ___, 82 USPQ2d 1395-1397 (2007) identified a number of rationales to support a conclusion of obviousness which are consistent with the proper “functional approach” to the determination of obviousness as laid down in *Graham*.” And, according to MPEP §2143.01, “[o]bviousness can be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so. *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1335 (Fed. Cir. 2006). Further, “[t]he mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art.” *KSR International Co. v. Teleflex, Inc.* 550 U.S. ___, ___, 82 USPQ2d 1385, 1396 (2007).

Jung and Gorman, neither individually nor when combined, teach or reasonably suggest all the features of claim 1 and a *prima facie* case of obviousness has not been met under MPEP §2142. Accordingly, Applicant respectfully requests the withdrawal of the rejection of the pending claims and requests their allowance.

Claims 4-5, 15-16 and 25-26 stand rejected under 35 U.S.C. §103(a), for reasons set forth above, further in view of Tsun, et al., U.S. Patent Application Publication No. 2004/0148610 (“Tsun”).

Claims 4-5, 15-16 and 25-26 depend from one of claims 1, 12 and 22 and thus include all the limitations of the corresponding base claim.

Conclusion

In light of the foregoing, reconsideration and allowance of the claims is hereby earnestly requested.

Invitation for a Telephone Interview

The Examiner is requested to call the undersigned at (303) 740-1980 if there remains any issue with allowance of the case.

Request for an Extension of Time

Applicant respectfully petitions for an extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary. Please charge our Deposit Account No. 02-2666 to cover the necessary fee under 37 C.F.R. § 1.17(a) for such an extension.

Charge our Deposit Account

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,

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